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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/788,782	02/27/2004	Mark C. Carter	EZUP:67823	6131

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EXAMINER

YIP, WINNIE S

ART UNIT PAPER NUMBER

3637

DATE MAILED: 07/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/788,782

Applicant(s)

CARTER, MARK C.

Examiner

Winnie Yip

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NW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 40-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 40-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date February 27, 2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

This is a first office action for application Serial No. 10/788,782 which is a continuation of co-pending application Serial No. 10/337,945 filed January 6, 2003 Now US Patent No. 6,701,949.

Claims 1-39 have been canceled in view of applicant's preliminary amendment filed February 27, 2004.

Claims 40-42 are pending in the application.

Priority

1. Regard to this application, a continuation of a CIP application, the newly proposed structural limitation (i.e., "at least one sides of the shelter is raised" and "central assembly of link members connecting opposing sides of the extendible perimeter assembly of link members") which are not supported by the parent application, the effective filling date is the filing date of the child CIP of application 09/490,860 which is filed January 24, 2000.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art

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date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 40 and 42 are rejected under 35 U.S.C. 102(e) as being anticipated by Carter (US Patent No. 5,490,533).

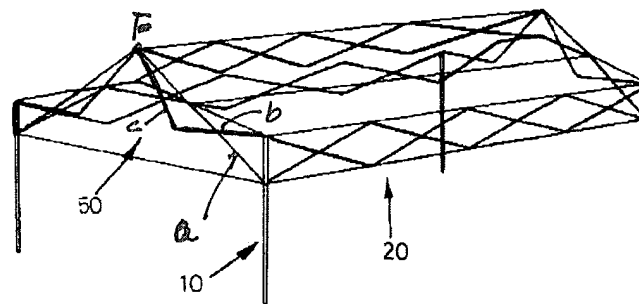
Carter shows and discloses a canopy shelter (See Fig. 2) comprising: a plurality of telescoping legs (26), a slider member (32) slidably mounted to each of the legs, an extendible perimeter assembly of link members each including a plurality of pairs of link members (42, 40) being pivotally connected together in a scissors configuration to form a plurality of sides of the shelter as so to be extendable from a first collapsed position retracted horizontally between pairs of legs to a second extended position extending horizontally between pairs of legs, each pair of link members having a first link member formed by connected members (54 and 66) and a second link members formed by connected members (44 and 76), wherein the second link member (44 and 76) has a dimension longer than a dimension of the first link member (54 and 66), the inner ends (70, 70) of the first link members and the inner ends (80, 80) of the second link members of the pairs of link members between adjacent pairs of legs being connected together such that the connected inner ends (80, 80) of the pairs of second link members extend above the connected inner ends (70, 70) of the pairs of first link members and both connected inner ends of the pairs of first and second link members extend above the upper ends of the pair of legs to provide a raised portion at each opposing side (50) of the shelter when the shelter is fully extended, and a cover inherently disposed over the legs and the extendible perimeter assembly of the link members.

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4. Claims 40-42 are rejected under 35 U.S.C. 102(e) as being anticipated by Rhee (US Patent No. 6,148,835).

Rhee shows and discloses a canopy shelter comprising, conventional, a plurality of telescoping legs (10), a slider member (31) slidably mounted to each of the legs, an extendible perimeter assembly of link members (20, 50) each including a plurality of pairs of link members (i.e., 51, 52; 20A, 20B) being pivotally connected together in a scissors configuration to form a plurality of sides of the shelter as so to be extendable from a first collapsed position retracted horizontally between pairs of legs to a second extended position extending horizontally between pairs of legs, each pair of link members having first (i.e., 52) and second (i.e., 51) link members. Rhee further teaches, in Fig. 7C, the extendible perimeter assembly at opposing sides (50) of the shelter having the first link member (a) having an outer end pivotally connected to the slider member (32) and the second link member formed by two hinged parts (b and c) having an outer end pivotally connected to an upper end of the respective leg (10), the second link member (b and c) having a dimension longer than dimension of the first link members (a) such that both connected inner ends of the pairs of second link members (F) extend above the upper ends of the legs to provide a raised portion at each opposing side (50) of the shelter to form a gabled configuration when the shelter is fully extended, and a cover inherently disposed over the legs and the extendible perimeter assembly of the link members.

FIG. 7C



Inquiry Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Winnie Yip whose telephone number is 703-308-2491. The examiner can normally be reached on M-F (9:30-6:30), Second Monday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Winnie Yip
Primary Examiner
Art Unit 3637

wsy
June 24, 2004